

ORDINANCE NO. 2005-14
AN ORDINANCE ADDING CHAPTERS TO TITLE 11
OF THE LAFAYETTE MUNICIPAL CODE – PUBLIC SAFETY AND NUISANCE

WHEREAS, the Common Council recognizes its continuing obligation to enact ordinances that promote public safety and welfare; and protect public buildings and facilities from vandalism and damage; NOW THEREFORE

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA as follows:

The Following Chapters shall be added to Title 11 of the Lafayette Municipal Code- Public Safety and Nuisance:

11.14 Loitering and Unlawful Assembly

(a) ***Loitering.*** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in any public place, public way, street, highway, or alley and refuse to obey the lawful command of a police officer to move on or provide to such police officer a lawful reason for remaining on such public way, street, highway, place or alley if the alleged loitering by such person would create or cause to be created any of the following:

- (1) Danger of a breach of the peace;
- (2) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place or alley reserved for pedestrians;
- (3) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place or alley;
- (4) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place or alley, in a manner that would cause a reasonable person or pedestrian of a public way, street, highway, place or alley to fear for his or her safety.

(b) ***Unlawful assembly.*** No person who is a member of a group of three (3) or more persons who are loitering or prowling in a place, at a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity, in a public way, street, highway, place or alley, shall refuse the lawful command of a police officer to move or provide to the police officer a lawful reason for remaining in a public way, street, highway, place or alley, whether such group is stationary or in transit, if the alleged loitering would create or cause to be created any of the following:

- (1) Danger of a breach of the peace;
 - (2) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place or alley reserved for pedestrians;
 - (3) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place or alley;
 - (4) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place or alley, in a manner that would cause a reasonable person or pedestrian of a public way, street, highway, place or alley to fear for his or her safety.
- (c) ***Failure of police officer to comply with proper procedure.*** No person shall be convicted under this section if the police officer failed to comply with the procedure outlined herein.
- (d) ***Person's explanation deemed true at trial.*** No person shall be convicted under this section if it appears at trial that the explanation given by the person is true and, if believed by the police, would:
- (1) Have dispelled the fear for human safety;
 - (2) Have dispelled the concern for safety of property;
 - (3) Have dispelled the fear of a breach of the peace;
 - (4) Have provided a justifiable reason for obstructing vehicular or pedestrian traffic, subject to the discretion of the court.
- (e) ***Probable cause to assume violation.*** If a person takes flight upon appearance of a police officer who identifies himself as such, or refuses to identify himself, or attempts to conceal himself, such police officer has probable cause to believe a violation of this section has occurred.
- (f) The first violation in any calendar year shall be subject to admission of violation and payment of a fine of \$50.00. All second and subsequent violations in the calendar year are subject to fines not less than \$100.00 or more than \$1000.00.

11.15 Possession of paint or marker with intent to deface unlawful

- (a) It shall be unlawful for any person to possess a spray paint container, liquid paint or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three-eighths of an inch or greater, etching equipment or etching materials, in any public building or upon any public facility. It shall be a defense to an action for violation of this subsection that the owner, manager or other person having control of the property, building or facility consented to the presence of the paint, marker or etching equipment or material.

- (b) It shall be unlawful for any person to possess a spray paint container, liquid paint or any marker containing a fluid which is not water soluble and has a point, brush, applicator or other writing surface of three-eighths of an inch or greater, or any etching equipment or etching materials, on the public way with intent to use the same to deface any building, structure or property.
- (c) For purposes of this section, "etching equipment" and "etching materials" include any tool, device, equipment or substance that can be used to make permanent marks on metal, glass, plastic, concrete or stone.
- (d) Any person who violates any provision of this section shall be subject to a fine of not more than \$1000.00.

Adopted this 6th day of June, 2005, by a vote of 8 in favor, 0 opposed.

CITY OF LAFAYETTE, INDIANA COMMON
COUNCIL

Steven Meyer ss
Steven Meyer, President

ATTEST:

Cindy Murray ss
Cindy L. Murray, City Clerk

Presented by me to the Mayor of Lafayette, Indiana, this 6th day of June, 2005.

Cindy Murray ss
Cindy L. Murray, City Clerk

Approved and signed by me this 6th day of June, 2005, at 9:00 o'clock.

Tony Roswarski ss
Tony M. Roswarski, Mayor

ATTEST:

Cindy Murray ss
Cindy L. Murray, City Clerk

Sponsored by: Edward Chosnek, City Attorney